REMARKS

Claims 1-9, 11-19, 21-23, 25-27 and 29-36 are pending in the application.

Claims 1-9, 11-19, 21-23, 25-27 and 29-36 have been rejected.

Rejection of Claims under 35 U.S.C. §103(a)

Claims 1-9, 11-19, 21-23, 25-27, 29-31 and 34-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,449,646 issued to Sikora *et al.*, ("Sikora") in view of U.S. Patent Application Pub. No. 2003/0018702 naming Broughton *et al.* as inventors ("Broughton"). Applicants respectfully traverse this rejection.

In order for a claim to be rendered invalid under 35 U.S.C. § 103, the subject matter of the claim as a whole would have to be obvious to a person of ordinary skill in the art at the time the invention was made. *See* 35 U.S.C. § 103(a). This requires: (1) the reference(s) must teach or suggest all of the claim limitations; (2) there must be some teaching, suggestion or motivation to combine references either in the references themselves or in the knowledge of the art; and (3) there must be a reasonable expectation of success. *See* MPEP 2143; MPEP 2143.03; *In re Rouffet*, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998).

Independent Claims 1, 15, 23 and 27 each contain limitations of a form similar to that presented in Claim 1:

> forming a list of routes, wherein each route includes information related to the type of communication media available along the route for handling one or more of the work items; and
>
> entering one or more escalation rules for the route.

Neither Sikora nor Broughton, alone or in combination, teach these limitations.

Sikora does not provide disclosure of "forming a list of routes" as required by each of the independent claims. As defined by the present application a "route" represents a specific way to process a work item. *See* Application, p. 18, l. 8. Associating a work item with a route defines the way that work item should be handled. *Id.*, ll. 9-10. A work item is associated with a route based upon the characteristics of that work item, which dictate the manner in which that work item is processed (i.e., choice of route). The Application also distinguishes between a route (defining how to process a work item) and a route queue into which a work item can be inserted after determining that the work item should be associated with a particular route. *See* Application, p. 24, ll. 5-13.

Sikora does not provide a list of routes. The Office Action dated November 22, 2004 ("the November Office Action") cites only to email queues, call queues, and "other" queues illustrated in Sikora, Figure 3 as disclosure of routes. *See* November Office Action, p.2. Applicants respectfully submit that the clear distinction made between a route and a route queue within the present application requires finding it inappropriate to equate Sikora's queues with the claimed route. In the Office Action dated June 30, 2005, ("the June Office Action"), it is presented that "the email and call queues inherently specify a way in which the queue (or customer request) should be treated." June Office Action, p. 5. Applicants respectfully submit that Sikora provides no disclosure of the nature of the queues therein provided beyond that they are mere staging areas for incoming transactions. While Sikora suggests that items are placed in a queue based on characteristics such as transaction type, there is no disclosure that a queue defines a specific way to process a work items.

- 8 -

Indeed, a decision in Sikora related to how a particular item in a queue is ultimately processed is not determined by queue characteristics, but by resource rules that are associated with an agent that ultimately processes an item. These resource rules are used in determining which agent will process a work item. This is a further distinguishing feature between Sikora's queues and resource rules and the present application's routes, because a route can provide instructions for the handling of a work item from entry into the system until exit.

The November Office Action and the June Office Action admit that Sikora does not disclose entering one or more escalation rules for a route. Both Office Actions posit that Broughton supplies this missing disclosure. The present Application provides the following definition of the characteristics of an escalation rule:

> Figure 4E shows an example of a table for escalation rules that define how the processing of a work item can be escalated if the work item has not been served for a pre-defined period of time. Each escalation rule defines a way that a work item should be processed. The escalation rules can generalize the skill requirement of a work item so that the chance of having the work item served is improved. Each escalation rule can also be associated with a sequence number that indicates the order in which the particular escalation will be executed in relation to the other escalation rules for the specified route.

Application, p. 33, ll. 8-14. Thus, escalation rules can generalize parameters of a work item so that one or more additional routes can be made available for selection to serve the work item. Applicants respectfully submit that Broughton does not describe escalation rules with these characteristics. Broughton merely provides a mechanism for a user to enter a desire to escalate an item (in the voice or Internet modes of operation) or for moving an email to an immediate response scheme upon the expiration of a period of time. Broughton provides no capacity for supplying an "escalation rule" as claimed and described by the present Application.

For at least the above reasons, Applicants respectfully submit that neither Sikora nor Broughton, alone or in combination, provide disclosure of each limitation of independent Claims 1, 15, 23 and 27, and therefore do not render these claims, or claims dependent thereon, obvious under 35 U.S.C. § 103(a).

In addition, Applicants also respectfully submit that the Examiner has not satisfied the burden of factually supporting the alledged motivation to combine the two references. The Examiner's duty may not be satisfied by engaging in impermissible hindsight; any conclusion of obviousness must be reached on the basis of fact gleamed from the references. The Examiner must therefore provide evidence to suggest the combination and "[b]road conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence'". *See In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The November Office Action provides no support for combining the references beyond stating that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sikora's et al. invention by having a workflow code ... where contacts are assigned to one of three tiers for service based on media type ... where escalation or de-escalation to another tier can be based on one or more criteria ... as taught by Broughton et al." November Office Action, p. 8. The Office Action makes no showing of a motivation to combine Sikora with Broughton from within the references themselves beyond this broad statement, therefore it must be presumed that there is none. Applicants respectfully submit that such an argument fails to establish a *prima facia* case of obviousness. A showing of combinability must be "clear and particular" and "broad conclusive statements about the teaching of multiple references, standing alone, are not 'evidence.'" *See Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 666 (Fed. Cir. 2000). Sikora has no provision for such

- 10 -

multiple tiers of service based on media type, nor does it have any suggestion that such a modification is desirable. Further, as detailed below, Broughton contains no disclosure of a queuing environment and Broughton's suggested disclosure for escalation of items would not function in a Sikora queuing environment. Without these types of handles between Sikora and Broughton, Applicants respectfully submit that it is inappropriate to say that a combination of these references is suggested by the references themselves.

Applicants further respectfully submit that the Office Action fails to provide any indication that such a combination of Sikora with Broughton would meet with success. Sikora queues up item transactions and only takes an item out of a queue based on the availability of an agent with a matching resource rule. Sikora provides no provision for moving an items from a low-priority queue to a higher-priority queue (and, in fact, does not even disclose queues having low and high priorities). Sikora also does not disclose a provision for modifying a resource rule to choose one item over another so as to effectively provide escalation. Therefore, the Sikora disclosure (as admitted in the Office Action) does not provide for escalation of items in Sikora's queues. The Office Actions present that Broughton provides disclosure of a method to escalate items, but Broughton does not disclose moving items from, for example, a low-priority queue to a high-priority queue, or disclosure for modifying queue parameters in order to escalate an item that is residing in a queue. Broughton's disclosure requires interaction from a user (in the case of voice or Internet items) or a time expiration (to send an email to an immediate response area). These methods do not involve queues as disclosed in Sikora, nor would such methods function in a queued environment, since items residing in a queue would not have a capacity for interaction with the user. Applicants respectfully submit that Sikora's disclosed queues do not provide for response to user input for an item waiting in
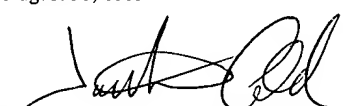
- 11 -

queue and Broughton provides no disclosure for permitting this to happen. Further, Sikora provides no disclosure for addressing time expiration of items in queues and Broughton does not disclose how to remedy this defect in Sikora's queues.

Even should Sikora and Broughton be combined, there is no indication that such a combination would function as claimed. As disclosed, Sikora enters items into a queue based on a transaction type/content/database lookup. An item will then wait in its queue until an agent is ready and a resource rule comparison equates the agent with an item. Broughton discloses an escalation method for certain types of items, but requires access to items that Sikora cannot provide (user input or constant monitoring) and a place to put an escalated item which Sikora also does not provide. Therefore, using Broughton in the environment set up by Sikora will not function to provide escalation rules, either those disclosed in Broughton or as claimed. Further, the method described by Broughton's disclosure does not make use of queues and, in fact, the methods described for item escalation in Broughton cannot function in a queued environment because of the lack of user interaction present in such an environment; this is why Broughton relies upon a user interactive environment (*see, e.g.*, Broughton ¶¶ 50-54).
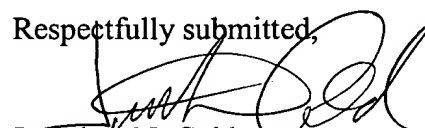
For at least the above reasons, Applicants respectfully submit that there would be no reasonable expectation of success in combining Sikora with Broughton in an attempt to arrive at the invention claimed in the present application. Therefore, Applicants respectfully submit that the Office Action fails to present a *prima facia* case of obviousness of Independent Claims 1, 15, 23 and 27, and all claims dependent thereon, and that they are in condition for allowance. Applicants respectfully request the Examiner's reconsideration of the rejection to those claims.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

Respectfully submitted,

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